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JUN 20 2000

SPECIAL PROGRAMS OFFICE
DAC FOR PATENTS

In re Application of :
Khurshed Mazhar, David Nadalin, :
Kevin Larkin and Kevin Warne : DECISION REFUSING STATUS
Application No. 09/411,171 : UNDER 37 CFR 1.47(a)
Filed: October 1, 1999 :
For: Windows Radio Toolbar :

This is in response to the "Petition Under 37 CFR 1.47(a)," filed April 3, 2000 (certificate of mailing date: March 24, 1999).

The petition is **dismissed**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on October 1, 1999 without an executed oath or declaration and naming Khurshed Mazhar, David Nadalin and Kevin Larkin as a joint inventors.

Accordingly, on October 25, 1999, a "Notice to File Missing Parts of Application" was mailed, requiring an executed oath or declaration, and a surcharge for late filing.

In response, on April 3, 1999, a Joint Declaration for Patent Application signed by Khurshed Mazhar, David Nadalin and Kevin Larkin, check for \$130.00 surcharge, Petition for a three (3) month Extension of time,

Petition Under 37 CFR 1.47(a), and a Declaration of D. Bartley Eppenauer in support of the Rule 1.47 petition were filed.

A grantable petition under 37 CFR 1.47(a) requires:

- (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);
- (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;
- (3) the petition fee; and
- (4) a statement of the last known address of the non-signing inventor.

Applicant lacks items (2) and (4) set forth above.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 has not been presented. 37 CFR 1.63 requires the identification of each inventor. The instant petition under 37 CFR 1.47 has been filed to recognize the fact that the inventor, Kevin Warne, cannot be reached. However, the declaration submitted on April 3, 2000 makes no mention of Kevin Warne as an inventor. Accordingly, Kevin Warne should be identified as an inventor and a signature block should be placed on the declaration with the other inventors. Kevin Warne's signature block should remain un-signed/blank.

As to item (4), a statement of the inventor's last known address is missing and is required. Rule 47 applicant states that no address for the inventor that cannot be reached, Kevin Warne, is known. However, this information is required by 37 CFR 1.47(a). Accordingly, petitioner should file a Petition under 37 CFR 1.183, requesting the requirement of providing the last known address for the inventor under 37 CFR 1.47(a) be suspended in this instance. A petition under 37 CFR 1.183 must be accompanied by a \$130.00 petition fee.

After this decision is mailed, petitioner's deposit account No. 19-0733, will be charged the required \$130 petition fee.

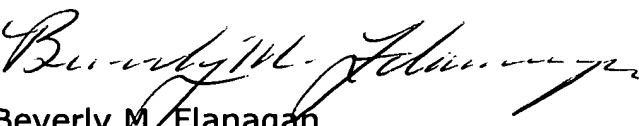
Further correspondence with respect to this matter should be addressed as follows:

By mail: Assistant Commissioner for Patents
Box DAC
Washington, DC 20231

By FAX: (703) 308-6916
Attn: Office of Petitions

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Telephone inquiries should be directed to Petitions Attorney Edward Tannouse at (703) 306-9200.


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